

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
SOUTHERN DIVISION**

TAMMY L. BONNER

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PLAINTIFF

v.

Civil No. 1:21cv341-HSO-RPM

**COMMISSIONER OF SOCIAL
SECURITY**

DEFENDANT

**ORDER ADOPTING MAGISTRATE JUDGE’S REPORT
AND RECOMMENDATION [15], AFFIRMING COMMISSIONER
OF SOCIAL SECURITY’S DECISION, AND DISMISSING
CASE WITH PREJUDICE**

BEFORE THE COURT is the Report and Recommendation [15] of United States Magistrate Judge Robert P. Myers, Jr., entered on February 13, 2023. The Magistrate Judge recommended that the Commissioner of Social Security’s decision be affirmed. *See* R. & R. [15] at 11 (filed restricted access). No party has objected to the Report and Recommendation [15], and the time for doing so has passed. After review of the record and relevant law, the Court finds that the Report and Recommendation [15] should be adopted, that the Commissioner’s decision should be affirmed, and that this civil action should be dismissed with prejudice.

I. BACKGROUND

On or about August 10, 2017, Plaintiff Tammy L. Bonner (“Plaintiff” or “Bonner”) filed an application with the Social Security Administration for disability

insurance benefits, alleging an onset of disability on April 25, 2017. *See* R. [8] at 124-25 (filed restricted access). The claim was initially denied in November 2017, *see id.* at 133, and upon reconsideration in January 2018, *see id.* at 143.

After Plaintiff submitted a written request for hearing, an Administrative Law Judge (“ALJ”) held a hearing. *See id.* at 163. The ALJ considered whether the claimant was disabled under the Social Security Act (the “Act”) and whether she met the insured status requirements of the Act. *See id.* at 163. The ALJ concluded that Plaintiff was not disabled from April 25, 2017, through the date of that decision in May 2019. *See id.* at 163-77. Plaintiff sought Appeals Council review of the ALJ’s decision, and the Appeals Council vacated the ALJ’s decision and remanded the case to the ALJ for further consideration of the medical opinion of Dr. Shyam Daya. *See id.* at 185-86. On remand, the ALJ conducted another hearing, and in February 2021, she determined that Plaintiff was not disabled under the Act. *See id.* at 16-32, 111. Plaintiff again sought Appeals Council review, *see id.* at 412-17, which was denied, *see id.* at 7.

Plaintiff then filed a Complaint [1] in this Court seeking judicial review pursuant to 42 U.S.C. § 405(g). *See* Compl. [1] (filed restricted access). Plaintiff insists that she “has since April 15, 2017 been unable to engage in any substantial gainful activity,” and “Defendant’s decision denying Plaintiff’s disability benefits is not supported by substantial evidence in the record” and “is the result of an incorrect application of law and regulation to the facts of Plaintiff’s case.” *Id.* at 2. Plaintiff asks that the Court reverse Defendant’s decision denying her disability insurance

benefits and “[o]rder Defendant to grant Plaintiff Disability Insurance commencing April 25, 2017.” *Id.*

On February 13, 2023, United States Magistrate Judge Robert P. Myers, Jr., entered a Report and Recommendation [15] finding that the ALJ’s determination of Plaintiff’s Residual Function Capacity (“RFC”) was supported by substantial evidence and concluding that the Commissioner’s decision should be affirmed. *See* R. & R. [15] at 4-11 (filed restricted access). No party has objected to the Report and Recommendation [15], and the time for doing so has passed. *See* L.U. Civ. R. 72(a)(3).

II. DISCUSSION

Where no party has objected to a Magistrate Judge’s report and recommendation, the Court need not conduct a de novo review of it. 28 U.S.C. § 636(b)(1) (“A judge of the court shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made.”). Where there are no objections, the Court applies the “clearly erroneous, abuse of discretion and contrary to law” standard of review to the report and recommendation. *United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir. 1989).

Having conducted the required review, the Court concludes that the Report and Recommendation [15] is neither clearly erroneous nor contrary to law. The Court will adopt the Magistrate Judge’s Report and Recommendation [15] as the opinion of this Court and affirm the decision of the Commissioner.

III. CONCLUSION

IT IS, THEREFORE, ORDERED AND ADJUDGED that, the Report and Recommendation [15] of United States Magistrate Judge Robert P. Myers, Jr., entered on February 13, 2023, is **ADOPTED** as the finding of this Court.

IT IS, FURTHER, ORDERED AND ADJUDGED that, the Commissioner of Social Security's decision is **AFFIRMED**, and this civil action is **DISMISSED WITH PREJUDICE**. This Court will enter a separate final judgment pursuant to Federal Rule of Civil Procedure 58.

SO ORDERED AND ADJUDGED, this the 28th day of February, 2023.

s/ Halil Suleyman Ozerden

HALIL SULEYMAN OZERDEN
UNITED STATES DISTRICT JUDGE